

The Gazette of India

EXTRAORDINARY

PART II—Section 2

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LOK SABHA

The following Bills were introduced in Lok Sabha on the 24th April, 1959 :—

*BILL NO. 32 OF 1959

A Bill to provide for the compulsory notification of vacancies to employment exchanges.

Be it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

1. (1) This Act may be called the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959.

Short title,
extent and
commence-
ment.

5 (2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force in a State on such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf for such State and different dates may be appointed for
10 different States or for different areas of a State.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “appropriate Government” means—

(1) in relation to—

(a) any establishment of any railway, major port,
15 mine or oil-field, or

*The President has, in pursuance of clause (3) of article 117 of the Constitution of India, recommended to Lok Sabha the consideration of the Bill.

(b) any establishment owned, controlled or managed by—

(i) the Central Government or a department of the Central Government,

(ii) a company in which not less than fifty-one per cent. of the share capital is held by the Central Government or partly by the Central Government and partly by one or more State Governments,

(iii) a corporation (including a co-operative society) established by or under a Central Act which is owned, controlled or managed by the Central Government,

the Central Government;

(2) in relation to any other establishment, the Government of the State in which that other establishment is situate;

(b) "employee" means any person who is employed in an establishment to do any work for remuneration;

(c) "employer" means any person who employs one or more other persons to do any work in an establishment for remuneration and includes any person entrusted with the supervision and control of employees in such establishment;

(d) "employment exchange" means any office or place established and maintained by the Government for the collection and furnishing of information, either by the keeping of registers or otherwise, respecting—

(i) persons who seek to engage employees,

(ii) persons who seek employment, and

(iii) vacancies to which persons seeking employment may be appointed;

(e) "establishment" means—

(a) any office, or

(b) any place where any industry, trade, business or occupation is carried on;

(f) "establishment in public sector" means an establishment owned, controlled or managed by—

(1) the Government or a department of the Government;

(2) a Government company as defined in section 617 of the Companies Act, 1956;

(3) a corporation (including a co-operative society) established by or under a Central, Provincial or State Act, which is owned, controlled or managed by the Government;

(4) a local authority;

5 (g) "establishment in private sector" means an establishment which is not an establishment in public sector and where ordinarily twenty-five or more persons are employed to work for remuneration;

10 (h) "prescribed" means prescribed by rules made under this Act;

(i) "unskilled office work" means work done in an establishment by any of the following categories of employees, namely:—

(1) *daftri*;

15 (2) *jemadar*, orderly and peon;

(3) dusting man or *farash*;

(4) bundle or record lifter;

(5) process server;

(6) watchman;

20 (7) sweeper;

(8) any other employee doing any routine or unskilled work which the Central Government may, by notification in the Official Gazette, declare to be unskilled office work.

3. (1) This Act shall not apply in relation to vacancies,—

25 (a) in any employment in agriculture (including horticulture) in any establishment in private sector other than employment as agricultural or farm machinery operatives;

(b) in any employment in domestic service;

30 (c) in any employment the total duration of which is less than three months;

(d) in any employment to do unskilled office work.

(2) Unless the Central Government otherwise directs by notification in the Official Gazette in this behalf, this Act shall not also apply in relation to—

35 (a) vacancies which are proposed to be filled through promotion or by absorption of surplus staff of any branch or department of the same establishment or on the result of any

Act not to apply in relation to certain vacancies.

examination conducted or interview held by, or on the recommendation of, any independent agency, such as the Union or a State Public Service Commission and the like;

(b) vacancies in an employment which carries a remuneration of less than sixty rupees in a month.

Notification
of vacancies
to employ-
ment ex-
changes.

4. (1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall, before filling up any vacancy in any employment in that establishment, notify that vacancy to such employment exchanges as may be prescribed, and the employer shall thereupon comply with such requisition.

(3) The manner in which the vacancies referred to in sub-section (1) or sub-section (2) shall be notified to the employment exchanges and the particulars of employments in which such vacancies have occurred or are about to occur shall be such as may be prescribed.

(4) Nothing in sub-sections (1) and (2) shall be deemed to impose any obligation upon any employer to recruit any person through the employment exchange to fill any vacancy merely because that vacancy has been notified under any of those sub-sections.

Employers
to furnish
information
and returns
in prescri-
bed form.

5. (1) After the commencement of this Act in any State or area thereof, the employer in every establishment in public sector in that State or area shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment, to such employment exchanges as may be prescribed.

(2) The appropriate Government may, by notification in the Official Gazette, require that from such date as may be specified in the notification, the employer in every establishment in private sector or every establishment pertaining to any class or category of establishments in private sector shall furnish such information or return as may be prescribed in relation to vacancies that have occurred or are about to occur in that establishment to such employment exchanges as may be prescribed, and the employer shall

thereupon comply with such requisition.

(3) The form in which, and the intervals of time at which, such information or return shall be furnished and the particulars which they shall contain shall be such as may be prescribed.

5 6. Such officer of Government as may be prescribed in this behalf, or any person authorised by him in writing, shall have access to any relevant record or document in the possession of any employer required to furnish any information or returns under section 5 and may enter at any reasonable time any premises where
10 he believes such record or document to be and inspect or take copies of relevant records or documents or ask any question necessary for obtaining any information required under that section.

7. (1) If any employer fails to notify to the employment ex- Penalties.
changes prescribed for the purpose any vacancy in contraven-
15 tion of sub-section (1) or sub-section (2) of section 4, he shall be punishable for the first offence with fine which may extend to five hundred rupees and for every subsequent offence with fine which may extend to one thousand rupees.

(2) If any person—

20 (a) required to furnish any information or return—

(i) refuses or neglects to furnish such information or return, or

(ii) furnishes or causes to be furnished any information or return which he knows to be false, or

25 (iii) refuses to answer, or gives a false answer to, any question necessary for obtaining any information required to be furnished under section 5; or

(b) impedes the right of access to relevant records or documents or the right of entry conferred by section 6,

30 he shall be punishable for the first offence with fine which may extend to two hundred and fifty rupees and for every subsequent offence with fine which may extend to five hundred rupees.

8. No prosecution for an offence under this Act shall be instituted except by, or with the sanction of, such officer of Government as
35 may be prescribed in this behalf or any person authorised by that officer in writing. Cognizance of offences.

Protection
of action
taken in
good faith.

9. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

Power to
make rules.

10. (1) The Central Government may, by notification in the Official Gazette and subject to the condition of previous publication, 5 make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the employment exchange or exchanges to which, the 10 form and manner in which, and the time within which, vacancies shall be notified, and the particulars of employments in which such vacancies have occurred or are about to occur;

(b) the form and manner in which, and the intervals at which, information and returns required under section 5 15 shall be furnished, and the particulars which they shall contain;

(c) the officers by whom and the manner in which the right of access to documents and the right of entry conferred by section 6 may be exercised;

(d) any other matter which is to be or may be prescribed 20 under this Act.

(3) All rules made under this Act shall be laid for not less than thirty days before each House of Parliament as soon as may be after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid 25 or the session immediately following.

STATEMENT OF OBJECTS AND REASONS

The Training and Employment Services Organization Committee set up by the Government of India in 1952 had recommended, *inter alia*,—

(a) that employers should be required on a compulsory basis to notify to the employment exchanges all vacancies other than vacancies in unskilled categories, vacancies of temporary duration and vacancies proposed to be filled through promotion,

(b) that employers should also be required on a compulsory basis to render to the employment exchanges staff strength returns at regular intervals.

The Committee had further recommended that the measure of compulsion so suggested may be embodied in suitable legislation. The present Bill seeks to implement those recommendations.

GULZARI LAL NANDA.

NEW DELHI;

The 7th April, 1959.

FINANCIAL MEMORANDUM

The measures contemplated in the Bill form part of the normal expansion of the Employment Service and will accelerate the process of the utilisation of the Service. Consequently, the additional expenditure involved will not exceed the amount which will be normally required as the Service develops. The Bill when enacted into law will result in more vacancies being reported to the Employment Exchanges. It is difficult at this stage to make an exact estimate of the extra work-load or expenditure, but, the additional expenditure is not likely, in any case, to exceed 2 to 3 per cent. of the expenditure on Employment Exchanges or Rs. 2 to 3 lakhs per year. This additional expenditure will be shared between the Central and the State Governments in the ratio of 60:40. The Central share of expenditure will be met from out of the provision already made in the Plan for the development of the Service.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 10 of the Bill empowers the Central Government to make rules to carry out the purposes of the Bill. Particular matters in respect of which rules may be made are specified in sub-clause (2) of that clause. Provisions made in the proposed clause would enable the Central Government to make rules relating mainly to matters of procedure, *e.g.*, the form and manner in which and the time within which vacancies including particulars of employment in which such vacancies have occurred or are about to occur should be notified to the employment exchanges, the form and manner in which and the intervals of time at which information and returns required under clause 5 shall be furnished and the particulars which they shall contain. The delegation of powers is of a normal character.

BILL NO. 33 OF 1959

A Bill to prohibit the giving or taking of dowry.

BE it enacted by Parliament in the Tenth Year of the Republic of India as follows:—

Short title
extent and
commence-
ment.

1. (1) This Act may be called the Dowry Prohibition Act, 1959.

(2) It extends to the whole of India except the State of Jammu and Kashmir. 5

Defini-
tion of dowry

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different States.

2. In this Act, "dowry" means any property or valuable security given or agreed to be given to one party to a marriage or to any 10 other person on behalf of such party by the other party to the marriage or by any other person on behalf of such other party either at the marriage or before or after the marriage, as consideration for the betrothal or marriage of the said parties, but does not include—

15

(i) dower or mahar in the case of persons to whom the Muslim Personal Law (*Shariat*) applies; or

(ii) any presents made at the time of the marriage to either party to the marriage in the form of ornaments, clothes and other articles not exceeding two thousand rupees in value in the 20 aggregate.

Explanation.—The expression "valuable security" has the same meaning as in section 30 of the Indian Penal Code.

3. If any person, after the commencement of this Act, gives or takes or abets the giving or taking of dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Penalty for giving or taking dowry.
4. If any person, after the commencement of this Act, demands, directly or indirectly, from the parents or guardian of a bride or bridegroom, as the case may be, any dowry, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both. Penalty for demanding dowry.
5. Any agreement for the giving or taking of dowry shall be void. Agreement for giving or taking dowry to be void.

6. (1) Where, in contravention of the provisions of this Act, any dowry is received by any person other than the woman in connection with whose marriage it is given, that person shall transfer it to the woman within one year of the date of the marriage or, if the woman is a minor, within one year after she has attained the age of eighteen years, and pending such transfer, shall hold it in trust for the benefit of the woman. Dowry to be for the benefit of the wife or her heirs

(2) If any person fails to transfer any property as required by sub-section (1) and within the time limited therefor, he shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five thousand rupees, or with both; but such punishment shall not absolve the person from his obligation to transfer the property as required by sub-section (1).

(3) Where the woman entitled to any property under sub-section (1) dies before receiving it, the heirs of the woman shall be entitled to claim it from the person holding it for the time being.

(4) Nothing contained in this section shall affect the provisions of section 3 or section 4.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898,— Cognizance of offences.

(a) no court inferior to that of a magistrate of the first class shall try any offence punishable under this Act;

(b) no court shall take cognizance of any such offence except on a complaint made within one year from the date of the offence.

Offences
to be non-
cognizable,
bailable,
non-
compound-
able.

8. Every offence under this Act shall be non-cognizable, bailable and non-compoundable.

Power to
make
rules.

9. (1) The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) All rules made under this Act shall be laid before the State Legislature, as soon as may be, after they are made.

Repeals.

10. On the date on which this Act comes into force in the State of Andhra Pradesh or the State of Bihar, the Andhra Pradesh Dowry Prohibition Act, 1958, or, as the case may be, the Bihar Dowry Restraint Act, 1950, shall stand repealed.

Andhra
Pradesh
Act 1 of 1958.
Bihar Act
10 of 1950.

STATEMENT OF OBJECTS AND REASONS

The object of this Bill is to prohibit the evil practice of giving and taking of dowry. This question has been engaging the attention of the Government for some time past, and one of the methods by which this problem, which is essentially a social one, was sought to be tackled was by the conferment of improved property rights on women by the Hindu Succession Act, 1956. It is, however, felt that a law which makes the practice punishable and at the same time ensures that any dowry, if given, does enure for the benefit of the wife will go a long way to educating public opinion and to the eradication of this evil. There has also been a persistent demand for such a law both in and outside Parliament. Hence the present Bill. It, however, takes care to exclude presents in the form of clothes, ornaments, etc., which are customary at marriages, provided the value thereof does not exceed Rs. 2,000/-. Such a provision appears to be necessary to make the law workable.

NEW DELHI;

ASOKE K. SEN

The 21st April, 1959.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the State Government to make rules for carrying out the purposes of the Bill, as occasions may arise, in practice, for the making of rules in respect of minor matters, like the manner in which any dowry shall be transferred under clause 6. The delegation of power is of a normal character.

M. N. KAUL,
Secretary.